IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.910 OF 2005

Mallesha Baswant Jitte ..Petitioner.
Vs.
Vithal Sadashiv Bansode & Ors. ..Respondents.

...

Mr. M.A. Utgikar for the petitioner.

CORAM : DR.D.Y.CHANDRACHUD, J.

31st August, 2005.

P.C. :

The Additional District Judge in his order dated 6th January, 2005 has noted, this being a prima facie finding confined to the disposal of the application for interim relief, that there was no evidence to establish the factum of partition. That being the position, the Petitioner who claims to be a purchaser of the undivided interest of original Defendant Nos.2 to 6 and Defendant No.8 was not entitled to obstruct the possession of a co-sharer. The order of interim injunction that has ensued as a result of the impugned judgment of the Additional District Judge cannot therefore be faulted in these proceedings under Article 227. However, while dismissing this Petition, it is clarified that the observations contained in the impugned order are necessarily

confined to the disposal of the application for interim relief and shall not come in the way of the trial of the suit on merits. The petition is dismissed.